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DATE: July 20, 2016

TO: Senate Committee on Elections and Local Government
Assembly Committee on Campaigns and Elections

FROM: Michael Haas, Interim Administrator
Wisconsin Elections Commission

SUBJECT: Implementation of Electronic Voter Registration and ERIC

This memorandum constitutes the second quarterly report required under 2015 Wisconsin Act 261 (Act 261) to advise the appropriate standing committees of the Legislature regarding the Wisconsin Elections Commission's (WEC) progress in implementing an electronic voter registration system, also referred to as online voter registration or OVR. The first report was submitted by the Government Accountability Board (G.A.B.) on April 20, 2016. The WEC became the successor agency to the G.A.B. for purposes of administering election laws effective June 30, 2016, and is developing the electronic voter registration system with the Department of Transportation (DOT), which is submitting a separate report. This correspondence also includes a brief status report regarding the WEC's implementation of an agreement with the Electronic Registration Information Center (ERIC), which is another initiative contained in Act 261, although the Act did not include a specific reporting requirement regarding ERIC.

Since the first quarterly report was submitted, WEC and DOT staff have met on several occasions to discuss implementation of online voter registration and the ERIC initiative. Both projects have experienced some implementation hurdles and delays which the two agencies are working to resolve so that implementation deadlines can be met

Online Voter Registration (OVR)

Since the first quarterly report was submitted, WEC and DOT staff have met seven times to discuss implementing OVR on the following dates: May 3, 2016, May 25, 2016, June 9, 2016, June 20, 2016, July 7, 2016, July 18, 2016, and July 19, 2016. The majority of these meetings have focused on the verification process that will be required in order to verify a person's unique information and permit them to use the online system.

Act 261 requires WEC and DOT to enter into a Memorandum of Understanding (MOU) to govern the implementation of the online registration system. DOT staff provided a draft MOU to the WEC, which is in the process of reviewing it and developing possible revisions. DOT and WEC staff are attempting to finalize the MOU and complete the business requirements for the OVR process by the end of July.

The most significant issue which must be resolved to complete both the MOU and the technical design of the system involves the process to verify a registrant's information with DOT while using the OVR system which will be hosted on the WEC's MyVote Wisconsin website. Act 261 requires that the system confirm whether the individual user holds a valid DOT product so that the individual may register online rather than providing another form of proof of residence while registering by mail or in person. Act 261 requires that the OVR system include an instant verification of the user's personal information by accessing their record in the database of the Division of Motor Vehicles (DMV).

Initial conversations centered on a process of matching the character strings in the name and address which an individual enters into the OVR system with their name and address in the DMV database. This would be similar to the existing process known as HAVA Checks, required under federal law, in which an elector's name, date of birth and driver's license number or last four digits of their Social Security number which are listed on the voter registration application are compared with the same fields in the DMV database.

However, challenges with the HAVA Check process related to precisely matching the same individual's name as entered in two different databases would be compounded by requiring an exact match of address information. A false mismatch in the HAVA Check process does not impact an individual's ability to complete the voter registration process. A false mismatch in the OVR process, generated by variations on how data was entered into either database, could deny many individuals the ability to use the OVR system despite being eligible to do so under Act 261.

This concern has prompted discussions of an alternative method of instantly verifying an individual's identity and eligibility to access the OVR system. WEC and DOT staff are exploring the possibility of requiring individuals using the system to enter their name, date of birth, driver's license number/state ID card number, and last four digits of their Social Security number. All of those data fields, except name information, are confidential and much less likely to be available to other persons than is address information. Using those data fields is also more likely to result in an accurate matching process so that all eligible individuals are permitted to use the system. This approach would also have the advantages of being consistent with DMV's current process to allow individuals to change their address online, and reducing the costs of development and implementation of the OVR system.

If this method of verification is adopted, the DMV database would return the registrant's address as listed in the DMV database and request the individual to validate the information before being permitted to proceed with registering online. If the DMV database does not return the individual's current address, the OVR system would direct the user to the DMV database to update their address information, and then permit the user to complete the online voter registration process. If the DMV database does not include the individual's name, birthdate, and either driver's license/state ID card or Social Security data, the individual may not register online and will be directed to alternative methods of registering.

Instructions would be provided to the registrant to enter their name exactly as it appears on the DOT product in an attempt to minimize a false mismatch. However, many DOT products do not

contain current address information as many Wisconsinites move during the eight years the product is valid but do not get a new license or state identification card. Therefore, providing instructions to registrants to enter their address exactly as it appears on their license or State ID card would not prevent false mismatches in many cases, likely preventing eligible users from accessing the OVR system.

WEC staff believes the matching of name, date of birth, driver license number/state ID card number and last four digits of a Social Security number with a verification of address is superior to the matching process used in the HAVA Check process. Wis. Stat. §§ 6.34(4) and 6.34(2m), which set forth the information that must be transmitted to the DOT through the electronic registration system, do not require the individual's address as a data field that is required to be submitted to DMV for verification through the OVR process. The process would add another layer of security verification and reduce opportunity for fraudulent activity by requiring both the registrant's driver license or state identification card number and the last four digits of their Social Security Number (in addition to the date of birth) while significantly minimizing false mismatches due to database inconsistencies.

The design of the instant verification process is key to the operation of the overall OVR system, and WEC and DOT staff are focusing on resolving that issue, so that development and testing of the system may progress, and its implementation may remain on schedule for a launch in early 2017.

Electronic Registration Information Center (ERIC)

2015 Wisconsin Act 261 required that the G.A.B. enter into an agreement with ERIC, a consortium of states which share data from its voter registration and motor vehicle agencies. The purpose of ERIC is to maintain the accuracy and currency of the voter registration records by correcting records of individuals who have moved, changed their name, or are deceased. The program helps to detect individuals who may have registered or voted in more than one state. Finally, states which are members of ERIC are required to contact individuals who are identified as potentially eligible electors that are not registered to vote, and provide them with information about the registration and voting process in their state, at least once prior to every general election.

On May 17, 2016, to comply with the legislative directive, the G.A.B. entered into an agreement to join ERIC, and Wisconsin was formally accepted as a participating member of ERIC. On June 29, 2016, G.A.B. and DOT staff participated in an orientation webinar presented by ERIC staff to discuss the program and the process of transferring Wisconsin data to ERIC. Subsequently, WEC and DOT staff have been working towards developing the IT functionality to provide test data to ERIC and eventually actual data to be included in the matching process.

There is a significant issue which must be resolved before Wisconsin will be permitted to fully participate in the ERIC initiative, which has involved consultations with the Governor's Office, Department of Justice, ERIC staff and legislative offices. Specifically, the statutes governing the confidentiality of DMV data has created uncertainty as to whether DMV may share Social

Security data related to driver's license holders, and any data related to State ID cardholders as required by the ERIC membership agreement.

On July 5, 2016 the Wisconsin Department of Justice (DOJ) advised that the last four digits of the Social Security card associated with a driver license record may be shared with WEC and ERIC due to the anonymization of the data and use of a one-way hashing process. The data shared by DOT is actually converted into a hashed character string and is no longer the last four digits of the Social Security number. The Social Security data cannot be determined either by ERIC staff or other member states.

However, DOJ also advised that Wis. Stat. §343.50(8)(b), the provision governing the confidentiality of information in the DMV database related to State ID cardholders, more broadly forbids providing any personal information about those product holders to either WEC or ERIC. DOT provided statistics on the number of driver license and state identification card records over the age of 18 that are U.S. citizens to determine the percentage of records that DOT would be able to disclose to WEC and ERIC. 4,094,147 (89%) individuals have a driver license record and 513,093 (11%) have a state identification card.

The inability to include State ID cardholders in the ERIC matching process would jeopardize Wisconsin's ability to comply with the membership agreement, as neither Wisconsin nor other member states would receive the full benefit of the matching program. Individuals holding a State ID card would not be included in the pool of eligible but unregistered voters who would receive a mailing that contains information about how to complete their voter registration.

ERIC staff has advised that omitting the State ID cardholder information would likely result in the ERIC Board of Directors acting to remove Wisconsin as a member of the consortium under the theory that Wisconsin would be unable to fully comply with the ERIC membership agreement. In addition, if Wisconsin is unable to complete the required initial outreach to eligible but unregistered individual prior to October 1, 2016, WEC will lose grant funding awarded by the PEW Center for the States of up to \$150,000 to cover one-half of the cost of the mailing. Any subsequent effort to re-join ERIC in the future would require additional funding to pay for the entire cost of the initial mailing.

WEC and DOT staff has been working to resolve this issue through daily discussions with stakeholders. Time is very limited to meet the ERIC requirements prior to the 2016 General Election. A potential solution is being considered to permit substantial compliance with the ERIC requirements while also committing to seek necessary legislative changes to clarify the information which DMV may share as part of the ERIC initiative.

We hope this information is helpful in advising the Legislature regarding the status of implementing electronic voter registration and the ERIC initiative. If any Committee members have questions regarding this matter, please feel free to contact me at 608-266-0136 or Michael.Haas@wi.gov.